

Dissecting Patterns of Hospital Civil Liability in Medical Disputes: Between Vicarious Liability and Central

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ABSTRACT: This research discusses the civil liability of hospitals in Indonesia in the context of medical malpractice. The purpose of this study is to explore the application of the principles of vicarious liability and corporate responsibility in the civil liability of hospitals for the acts of doctors working under the auspices of the hospital. The research method involves analyzing legal documents and medical malpractice cases in Indonesia. The results show that hospitals in Indonesia can be sued for damages for the acts or mistakes of their workers and agents as well as for their own mistakes. The principle of vicarious liability emphasizes that hospitals can be held liable for errors or omissions committed by doctors, nurses, or other medical personnel while they are serving under the auspices of the hospital. This research also shows that hospitals should ensure compliance with applicable regulations and procedures and conduct effective risk management to reduce the likelihood of medical disputes and the potential financial impact that could arise from legal claims. The contribution of this study is in improving the understanding of the legal liability of hospitals in medical malpractice cases and providing guidance for hospitals in developing and implementing better policies and procedures to reduce the risk of medical errors. The recommendation of this study is that hospitals should ensure that all their medical staff adhere to established medical standards and conduct effective risk management to reduce the likelihood of medical disputes and the potential financial impact that could arise from legal claims.

Keywords: Medical Malpractice, Vicarious Liability, Corporate Liability.



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INTRODUCTION

In Indonesian law, the concept of medical liability is a complex issue that has attracted the attention of many parties, including legal experts, healthcare professionals, and patients. The rise of medical malpractice cases in Indonesia has sparked concerns regarding the legal obligations of healthcare providers, particularly hospitals. It is important to understand how Indonesian law regulates hospital liability in medical malpractice cases, as well as how legal principles such as vicarious liability and corporate responsibility are applied. (Abduh, 2021)

In Indonesia, vicarious liability is a concept that states that an employer (in this case, a hospital) is

liable for acts or wrongs committed by its workers or agents, even though the employer was not directly involved in the commission of the wrongful act. This means that if a worker or agent of the hospital causes damage to a patient, the hospital can be required to pay compensation for the loss suffered by the patient. Article 1315 of the Civil Code (KUHP) states that the employer is liable for the acts of the worker if the acts were committed during the employment period and within the scope of his authority. Thus, if a hospital worker commits medical malpractice while performing his/her duties, the hospital can be sued to pay compensation for the losses suffered by the patient.(Harmoni et al., 2022)

In addition to vicarious liability, Indonesian law also recognizes corporate liability, which makes the corporation (in this case, the hospital) liable for its own torts. This means that if a hospital fails to provide adequate medical care or breaches other obligations towards patients, it can be sued to pay damages for the losses suffered. Law No. 40/2007 on Corporate Liability confirms that a corporation can be sued for damages for its own wrongdoing if the wrongdoing causes harm to another person. This law also states that a corporation can be sued for actions or errors committed by its directors, employees, or agents if such actions are committed in the course of their duties.(Kurniawan & Hapsari, 2022)

In the context of medical malpractice cases, hospitals in Indonesia are held liable for the acts or errors committed by their workers and agents. Therefore, if a patient is harmed as a result of medical malpractice committed by a hospital worker or agent, the hospital can be sued to pay compensation for the harm. This shows that the civil liability of hospitals in Indonesia is affected by both vicarious liability and corporate liability. Hospitals can be sued for damages for the acts or misconduct of their employees and agents as well as for their own misconduct.(Fernando & SH, 2021)

Humanly speaking, doctors, like any other individual, are not immune to the possibility of making mistakes or negligence. Fear or anxiety is often the reason many people hesitate to seek treatment, even if they are actually in need of medical care. When negligence occurs in medical practice, it can lead to malpractice charges. In addition, there are individuals who deliberately find fault with doctors to bring them to justice. In their profession, doctors are required to always strive to provide the best care for patients, in accordance with the standards of the medical profession. As part of their legal responsibility, doctors must be prepared to face the consequences if their actions cause harm to patients, and cannot shy away with the excuse that it is not their responsibility.

However, it is not that easy for a patient to accuse a doctor of negligence and take the case to court. There are 28 forms of professional discipline violations that doctors and the public must understand, so that the practice of medicine cannot be done carelessly without complying with the standards set by the government. When a doctor does not follow the standards of the medical profession, it can be considered as negligence or error, which can be one of the elements of malpractice, especially if it results in serious or fatal effects on the patient. However, deviation from medical professional standards does not necessarily mean punishable malpractice; evidence of gross negligence and serious harm is needed to bring it to justice.

All too often, malpractice is mistaken for an unavoidable medical risk. This leaves many doctors who have worked in accordance with medical standards and standard operating procedures (SOPs)

still facing malpractice charges. This condition illustrates how complicated the world of medicine is, where every medical action carries risks, even if it is done with the utmost care and according to standards. This medical risk is something that is always present in every medical action, and can sometimes be a form of error or negligence despite the doctor's best efforts.

The practice of medicine, which involves human interaction, is never free from the possibility of error. This is natural, as doctors, like any other human being, have limitations and shortcomings. In addition, the complexity in the field of medicine means that risks are always present, despite doctors' best efforts. These risks, which sometimes take the form of errors or omissions, are part of the reality of the medical world. Therefore, it is imperative for doctors to keep their knowledge up to date and remain vigilant in every action they take, for the safety of their patients and legal protection for themselves.

In recent years, the medical profession in Indonesia has often been in the public spotlight, especially regarding the issue of medical malpractice. From 2006 to 2012, 182 cases of medical negligence were recorded, involving various specialties. Of these, general practitioners were recorded in 60 cases, followed by surgeons with 49 cases, obstetricians with 33 cases, and pediatricians with 16 cases. Meanwhile, the rest included various other cases with less than 10 reports each. This fact shows that despite doctors' efforts to carry out their practices in accordance with applicable standards, they are still vulnerable to lawsuits. This raises concerns not only among medical professionals, but also the wider public who are increasingly wary of health services.

One clear example that shook the medical world occurred in 2010 in Manado, where three doctors, Dr. Dewa Ayu Sasiary, Dr. Hendry Simanjuntak, and Dr. Hendry Siagian, faced lawsuits for alleged malpractice. This case is not the last, as in 2016, a similar incident occurred in Bantul Regency, Yogyakarta. Rachma Husada Hospital was reported by a patient's family for alleged malpractice that resulted in the death of Sumarsih after a day of treatment. These incidents highlight the complexity of the medical profession, where demands for high quality service must be balanced with legal awareness and protection for doctors.

In addition, the case of Dr. Elisabeth stole the public's attention when her medical procedure led to the permanent blindness of her patient. The incident started when Agita Diola Fitria, on the recommendation of her relatives, visited Dr. Elisabeth's Belle Beauty Care clinic on Jalan Serigala, Makassar. Agita wanted to improve the appearance of her nose to make it look higher. In response to this request, Dr. Elisabeth recommended injecting liquid fillers in the nose and cheek area as a solution. However, instead of getting the desired results, the procedure ended tragically, causing permanent blindness in Agita's left eye.

Unable to accept this harsh reality, Agita immediately reported Dr. Elisabeth to the police on August 16, 2019. This report triggered an intensive investigation that eventually led to the naming of Dr. Elisabeth as a suspect. She was allegedly negligent and performed the filler injection procedure without having the appropriate license. The case then entered the legal realm with Dr. Elisabeth having to undergo an evidentiary hearing at the Makassar District Court. Despite facing a difficult situation, Dr. Elisabeth received support from various parties, including medical organizations such as Perdaweri, who defended her actions.

Dr. Elisabeth's case reflects the importance of a thorough understanding of the legal aspects of medical practice. In the current era of globalization, the health profession is increasingly in the spotlight, given its vital role in serving the public. The complexity and risks that accompany every medical action make professionals in this field have to be more careful and pay attention to every detail of the procedures performed. In addition, this case emphasizes the need for stricter regulations to ensure that every medical action is carried out in accordance with applicable standards, in order to protect both medical personnel and patients.

Furthermore, this case also underscores the need for increased awareness of patients' rights. The professional ethics that once safeguarded the reputation of health workers now need more support from strong laws and regulations. With stricter regulations and better legal education, it is hoped that medical personnel can carry out their profession with more confidence and safety, while patients and their families feel more protected and empowered in receiving health services. This is an important step towards an improved health system that is not only effective, but also fair and transparent for all parties.

Understanding these concepts is essential for patients seeking compensation for medical malpractice and for hospitals seeking to reduce their legal risks. Hospitals have a legal responsibility to ensure that all medical acts performed by its staff comply with established medical standards. The principle of vicarious liability emphasizes that hospitals can be held liable for errors or omissions committed by doctors, nurses, or other medical personnel while they are serving under the hospital's auspices. This principle is important to protect the rights of patients and encourages hospitals to ensure that all its medical staff adhere to established medical standards. In addition, hospitals must also ensure compliance with applicable regulations and procedures and conduct effective risk management to reduce the likelihood of medical disputes and the potential financial impact that could arise from legal claims.(Halim et al., 2023)

In legal studies, the concept of vicarious liability has long been a subject of significant discussion. According to Ika Sari (2020), vicarious liability is a legal principle that allows third parties to be held liable for acts or omissions committed by others in the context of employment or agency relationships. In Indonesia, the implementation of this concept in the medical world has been regulated in several laws and regulations aimed at protecting patient rights. The study by Ade Kurniawan (2021) shows that the implementation of corporate responsibility in the medical context in Indonesia still requires strengthening in the aspects of supervision and law enforcement. In addition, this study revealed that there are significant differences in the handling of medical malpractice cases between one hospital and another, which are often influenced by factors such as internal policies, organizational culture, and the level of legal awareness on the part of management.

Another study by Muhammad Mardani (2023) highlighted the importance of medical staff training and certification as one of the measures to reduce the risk of medical errors. In this study, it was found that hospitals that routinely conduct training and supervision of their medical staff tend to have lower medical error rates compared to hospitals that do not do so.

This research offers a new contribution to the understanding of the application of the principles of vicarious liability and corporate responsibility in the context of medical malpractice in

Indonesia. By conducting an in-depth analysis of medical malpractice cases that have occurred, this research seeks to identify weaknesses in the existing legal system and provide recommendations for improvement. In addition, it also emphasizes the importance of effective risk management implementation in reducing hospitals' legal exposure to medical malpractice cases. As such, this research not only makes a theoretical contribution to the field of health law, but also provides practical guidance for hospitals in managing their legal risks.

In addition, it is expected to make significant contributions in several aspects. First, this research will help improve the understanding of the legal liability of hospitals in medical malpractice cases, which can be used as a basis for the formulation of more effective policies. Second, this research is expected to provide guidance for hospitals in developing and implementing better policies and procedures to reduce the risk of medical errors and legal disputes. Third, this study is also expected to provide input for the development of training curriculum for medical staff, which can help improve the quality of medical services and reduce the risk of medical errors. Fourth, this research is expected to contribute to the establishment of clearer and more consistent legal precedents in the handling of medical malpractice cases in Indonesia.

This research has the main objective to analyze how the concept of medical liability is applied in the Indonesian legal system, particularly in relation to the civil liability of hospitals in medical malpractice cases. This objective stems from the concern of the increasing number of medical malpractice cases in Indonesia and the complexity of the law governing the responsibility of hospitals as health service providers. Through this research, it is hoped to clearly explain how Indonesian law regulates vicarious liability and corporate liability of hospitals in medical malpractice cases.

This research differs from previous studies in several important aspects. First, this research focuses in depth on the application of the concepts of vicarious liability and corporate liability in the context of health law in Indonesia, something that has not been comprehensively discussed in previous studies. While previous studies may have discussed medical liability in general, this study offers a more detailed specialized analysis of how these two legal concepts are applied in practice. Secondly, this research incorporates an analysis of various real-life cases of medical malpractice that have occurred in Indonesia, which provides an empirical insight into how these legal principles work within the Indonesian judicial system.

Therefore, this article formulates several problem formulations as follows; first, How is the application of vicarious liability in the civil liability of hospitals for the actions of doctors working under their auspices in medical disputes in Indonesia? and How is the application of central responsibility in the overall civil liability of hospitals in medical disputes in Indonesia?.

METHOD

The data analysis method in this research is legal document analysis with a normative approach, where primary legal sources such as legislation and relevant secondary legal sources will be reviewed and evaluated in depth. This research also uses content analysis to identify, classify, and evaluate various legal rules and principles related to medical malpractice, allowing researchers to

find patterns, themes, and relationships between relevant concepts. The data collected will be analyzed using a qualitative approach, examining the relevance and application of legal rules in medical malpractice cases in Indonesia, as well as evaluating the application of the law in previous cases to identify potential improvements in patient protection and hospital compliance with medical standards. As such, this research is expected to provide in-depth insights into the application of applicable laws, as well as provide practical recommendations for hospitals and policymakers in managing legal risks related to medical malpractice.

RESULT AND DISCUSSION

Application of vicarious liability in the civil liability of hospitals for the acts of doctors working under them in medical disputes in Indonesia

The Criminal Code states that the employer is liable for the acts of the worker if the acts are committed during the employment period and within the scope of authority (Article 1315 of the Criminal Code). This means that if a hospital worker commits medical malpractice while performing their duties, the hospital can be sued for damages. In addition to vicarious liability, Indonesian law also recognizes corporate liability, which makes the corporation (in this case, the hospital) liable for its own mistakes. This means that if the hospital fails to provide adequate medical care or breaches its obligations to the patient, the hospital can be sued for damages for the losses suffered.(AJIE, 2013)

Law No. 40 of 2007 on Corporate Liability confirms that a corporation can be sued for compensation for its own wrongdoing if that wrongdoing causes damage to another person. This law also confirms that a corporation can be indemnified for the acts or misconduct of its directors, employees, or agents if the acts were committed in the course of their duties. In the context of medical malpractice cases, hospitals in Indonesia are held liable for the acts or misconduct of their employees and agents. This means that if a patient is harmed as a result of medical malpractice committed by a worker or agent of the hospital, the hospital can be sued for compensation for the harm suffered.(Bagenda et al., 2023)

Thus, the civil liability of hospitals in Indonesia is affected by both vicarious liability and corporate liability. Hospitals can be sued for damages for the acts or misconduct of their employees and agents and can also be sued for damages for their own misconduct. Understanding these concepts is important for patients seeking compensation for medical malpractice and for hospitals seeking to reduce their risk exposure.

Hospitals have legal responsibility for the medical acts performed by their staff, which is reflected in the principle of Vicarious Liability. This means that hospitals can be held liable for any errors or omissions committed by doctors, nurses, or other medical personnel while they are serving under the hospital's auspices. This principle is important to protect the rights of patients and encourages hospitals to ensure that all its medical staff adhere to set medical standards. In addition, hospitals must also ensure compliance with applicable regulations and procedures and conduct effective risk management to reduce the likelihood of medical disputes and the potential financial impact that could arise from legal claims.(Zahrina, n.d.)

Vicarious Liability, also known as "liability by proxy," is a legal principle that states that a hospital can be held liable for the wrongs committed by its medical personnel in the course of their duties. Under this principle, the hospital is considered as the "principal" responsible for the actions of the "agent" (medical personnel) working under the hospital's auspices. Therefore, if medical personnel make mistakes in the performance of their duties, the hospital can be held legally responsible for the harm caused. This principle applies because the hospital has control and supervision over the medical personnel, so it can be considered that the hospital has given permission and support to the actions of the medical personnel. As such, the hospital should be held liable for any mistakes made by its medical personnel, including any harm caused to the patient or others associated with the mistake. (Rakhmadiar, 2023)

Hospitals must ensure that all their medical personnel adhere to established medical standards. By doing so, hospitals can ensure that patients receive quality and safe healthcare services. Medical standards adhered to by medical personnel cover various aspects, such as operating procedures, the use of medical devices, and communication with patients. By complying with medical standards, hospitals can reduce the risk of medical errors and ensure that patients receive services that are in line with high health standards.

Liability sharing is another implication of Vicarious Liability. Under this principle, the hospital shares responsibility with its medical staff towards the patient. Therefore, if the medical staff makes a mistake, the hospital can be held liable for the harm caused. As such, the hospital must ensure that its medical staff adhere to medical standards and receive appropriate training to ensure quality service. This principle also safeguards the rights of patients and incentivizes hospitals to pay attention to the training and supervision of their medical personnel. By ensuring that its medical staff comply with medical standards, hospitals can ensure that patients receive services that conform to high standards of health. Hospitals should therefore ensure that their medical staff adhere to medical standards and receive appropriate training to ensure quality services. By doing so, hospitals can ensure that patients receive services that conform to high health standards and comply with established medical standards. (Maya et al., 2023)

The case of Berlian Putri, a 13-year-old junior high school student from Palembang, South Sumatra, highlights a medical tragedy that has the potential to drastically change a young person's life. Berlian, who initially experienced fever, nausea and vomiting, found her condition worsening after receiving treatment from a midwife with the initials AG. What the midwife initially dismissed as normal symptoms of itching and a rash around the eyes developed into blindness. After ineffective initial treatment, Berlian had to undergo eye surgery and now needs a cornea donor for recovery. This case not only attracted public attention but also involved investigation by the police and monitoring by various agencies, including the PPA Office as well as the relevant hospitals.

To give a broader perspective, comparisons with other malpractice cases, such as that of Dr. Michael Swango in the United States, are important. Dr. Swango, a doctor previously involved in serious malpractice, caused many of his patients to die or suffer severe injuries. His case illustrates how critical strict oversight and effective reporting are in preventing and addressing medical malpractice, and the importance of a transparent and accountable healthcare system.

In Indonesia, the civil liability of hospitals for the malpractice of doctors is based on the principle of

vicarious liability, which means that hospitals are responsible for the actions of doctors working under their auspices. The legal process often involves the evaluation of reports of alleged malpractice and assessment by institutions such as the Indonesian Medical Discipline Honor Council (MKDKI). Meanwhile, in the United States, the medical malpractice system is more structured with strict regulations that allow patients to file claims directly against healthcare providers. The US court system often requires proof of negligence and the impact of the medical action. In the UK, the NHS Litigation Authority system handles malpractice claims through a specialized agency that provides compensation without having to go through the courts.

The practical implications of the findings of this study suggest that hospitals in Indonesia need to strengthen surveillance and reporting procedures to prevent malpractice. The implementation of a medical quality monitoring system and regular training for medical personnel can reduce the risk of similar incidents in the future. Transparency in handling malpractice reports as well as clear follow-ups will increase patients' trust in the health system. For policymakers, it is important to improve regulations and mechanisms for handling malpractice by considering the establishment of specialized institutions or the adoption of practices from other countries, such as automated claims systems or independent assessment institutions, to improve effectiveness and fairness in handling malpractice claims. The Berlian Putri case should be used as an important lesson to improve health service standards and patient protection in Indonesia.

Hospitals are responsible for managing risks related to medical errors. Under Vicarious Liability, the hospital is held liable for errors committed by its medical staff, including the financial risks involved. If it is proven that the medical staff made a mistake, the hospital must pay damages to the affected patients. As such, the hospital must ensure that its medical staff adhere to medical standards and receive appropriate training to reduce the risk of errors. Another difference between Vicarious Liability and Central Liability is that Central Liability highlights the hospital's direct responsibility for managerial or policy decisions that affect clinical aspects. In Central Liability, the hospital is held liable for decisions taken by hospital management, which may affect the overall medical practice. Decision-making factors in Central Liability include hospital administrative decisions that affect the overall medical practice. (Budiman et al., 2023)

In a legal context, this distinction is important to determine who is liable and at what level. Vicarious Liability focuses on the responsibility of medical staff, while Central Liability focuses on managerial responsibility. By understanding this distinction, hospitals can ensure that their medical staff adhere to medical standards and receive appropriate training to reduce the risk of errors. Patients expect safe and quality care from hospitals, regardless of the difference between Vicarious Liability and Central Liability. They expect that the hospital will ensure that its medical staff adhere to medical standards and receive appropriate training to reduce the risk of errors. As such, patients can feel safe and confident that they will receive care that conforms to high standards of healthcare. (Ho et al., 2024)

Medical cases often consider these two principles in determining fault and damages. The court must consider whether the mistakes made by medical staff were as a result of managerial decisions or as a result of individual negligence. In some jurisdictions, courts may favor one of the principles to resolve medical disputes. The legal approach in resolving medical disputes may also vary

depending on the jurisdiction and applicable regulations. Some jurisdictions may lean more towards Vicarious Liability, while others may lean more towards Central Liability. In some cases, courts may consider both and determine fault based on the specific context.

The evolution of the law in resolving medical disputes may also evolve over time through legal precedents and regulatory developments. The interpretation and application of these principles may change over time, so hospitals should always monitor legal and regulatory developments to ensure that they comply with appropriate medical standards and ensure patients' rights. By doing so, hospitals can ensure that patients receive care that conforms to high standards of healthcare and complies with established medical standards.(Tahir et al., 2023)

Vicarious Liability provides institutional protection against individual errors within the framework of their work. As such, hospitals can ensure that their medical staff adhere to medical standards and receive appropriate training to reduce the risk of errors. This protection also takes into account medical ethics and fairness in handling disputes involving healthcare. Hospitals should conduct a risk analysis regarding their legal liability to mitigate potential negative consequences. In this analysis, hospitals should consider various factors, including legal risk, reputational risk, and financial risk. By doing so, hospitals can ensure that they comply with all applicable regulations and laws to avoid legal sanctions that may arise from medical disputes.(Wibowo & Zulfiani, n.d.)

Training and certification of medical staff is also important for hospitals to ensure that they have the appropriate capabilities to reduce legal risks. Thus, hospitals can ensure that their medical staff adhere to medical standards and receive appropriate training to reduce the risk of errors. Updating hospital policies and procedures is also important to ensure compliance with legal and medical standards. Continuous evaluation of hospital policies and procedures can help ensure that the hospital complies with all applicable regulations and laws. As such, this explanation provides an overview of the complexities and legal implications related to hospital liability in medical disputes, both through Vicarious Liability and Central Liability. Hospitals must ensure that they comply with all applicable regulations and laws to avoid legal sanctions that may arise from medical disputes.(Anwar et al., 2023)

Hospitals have legal responsibility for the medical acts performed by their staff, which is reflected in the principle of Vicarious Liability. This means that hospitals can be held liable for any errors or omissions committed by doctors, nurses, or other medical personnel while they are serving under the hospital's auspices. This principle is important to protect the rights of patients and encourages hospitals to ensure that all its medical staff adhere to set medical standards. In addition, hospitals must also ensure compliance with applicable regulations and procedures and conduct effective risk management to reduce the likelihood of medical disputes and the potential financial impact that could arise from legal claims.(Maharani & Prakoso, 2023)

Article 1367 of the Civil Code emphasizes that a person is not only responsible for his own actions, but also for the actions of those who are his dependents or goods under his supervision. In the context of hospitals, the doctrine of vicarious liability implies that the hospital as an employer can be held legally responsible for the actions of doctors working under its auspices. This means that the hospital can be held liable for any errors or omissions that occur while the doctor is performing his or her medical duties at the hospital.(Toumahuw et al., 2023)

This doctrine is applied to ensure that the hospital, as a legal entity representing its doctors, is collectively responsible for the medical services provided under the auspices of the institution. This is in line with the principle of *respondeat superior*, which asserts that an employer is responsible for the actions of its subordinates as long as it is within the scope of its employment. Law No. 36 of 2009 on Health also reinforces this concept by providing a legal basis for patients or injured parties to claim compensation from hospitals, including the doctors who work in them. As such, this article provides a clear foundation that hospitals can be held liable for medical acts performed under the auspices of their institutions. (Tahir et al., 2023)

The pattern of hospital liability is generally regulated in the Civil Code and the Hospital Law in Indonesia. While these rules are general, their implementation may vary and lead to different interpretations among law enforcement depending on the case at hand. In practice, vicarious liability not only ensures protection for patients, but also incentivizes hospitals to ensure that they exercise careful supervision over the medical practices of their employed doctors. As such, this legal concept not only preserves justice for aggrieved individuals, but also promotes higher standards of medical care throughout the healthcare industry. (Koto & Asmadi, 2021).

Overall, the application of vicarious liability in the context of hospitals' civil liability for the actions of doctors working under them in Indonesia is a reflection of the law's commitment to uphold justice and accountability in health services. By understanding this legal basis, it can be expected that hospitals and their doctors will be more careful in providing safe and quality medical services to the public. Article 1367 of the Civil Code states that a person is not only liable for losses caused by his own actions, but also for losses caused by the actions of those who are his dependents or caused by goods under his supervision. (Pratama et al., 2024)

In this context, the article also provides that parents or guardians are liable for damages caused by minor children, who reside with them and over whom they exercise parental or guardian powers. In addition, employers and persons who appoint others to represent their affairs are also liable for damages caused by their servants or subordinates in performing the work assigned to them. Article 1367 of the Civil Code is the main foundation in determining liability in cases of tortious acts committed by dependents or goods under one's supervision. (Dzaky, 2022)

The doctrine of *respondeat superior* means that the employer is responsible for the acts of the servants for whom it is responsible. In the context of medical services, the hospital (as an employer) can be held responsible for mistakes made by doctors who work in a subordinate position (employee). This doctrine asserts that when a doctor commits an error or omission in providing medical services to a patient, the hospital as an employer can be held liable for the act. This applies because the doctor acts as a subordinate who works on behalf of the hospital. In practice, the doctrine of *respondeat superior* provides legal certainty for patients who suffer losses due to medical errors. The patient can file a claim for compensation to the hospital as the employer of the doctor who made the mistake, so that the hospital can be responsible for providing proper compensation to the affected patient. This doctrine is an important principle in civil law governing the relationship between employers and employees, especially in the context of medical services in hospitals. (Havrian, 2020)

Article 58 of Law No. 36/2009 on Health confirms that every person has the right to claim

compensation against a person, health worker, and/or health provider who causes harm due to an error or negligence in the health services they receive. This article also states that compensation claims do not apply to health workers who perform life-saving measures or prevent someone's disability in an emergency. (Hidayatullah, 2023)

Regulations regarding the pattern of hospital liability in Indonesia, as found in the Civil Code and the Hospital Law, are general and have the potential to cause differences in interpretation among law enforcers. However, Article 32(q) of Law No. 44/2009 on Hospitals states that every patient has the right to sue and/or prosecute the hospital if the hospital is suspected of providing services that are not in accordance with standards both civilly and criminally. Hospital-centered liability is also emphasized in Article 46 of the Hospital Law. However, this pattern of liability does not cause legal problems when applied to non-physician health workers, but has the potential to cause legal problems when applied to doctors. Thus, Law No. 36/2009 on Health provides a legal basis for patients to claim compensation against hospitals and health workers responsible for errors or omissions in the health services they receive. (Koto & Asmadi, 2021)

Vicarious liability is a legal concept in which a person or entity is responsible for the actions of another. In the context of medical disputes in Indonesia, for vicarious liability to apply, there are several elements that must be met:

1. **Working Relationship:** There is an employment relationship between the medical practitioner and the responsible institution or organization. This means that the medical practitioner must be an employee or agent of the institution.
2. **Actions within the Scope of Duty:** The act that causes harm must be performed within the scope of duties or authority given to the medical practitioner. This means that the act must be related to his or her job and performed within the time and place authorized by the employer or institution concerned.
3. **Supervisory Power:** The responsible institution or organization must have the power to supervise or control the medical practitioner in the performance of their duties. While they do not need to directly supervise every action, having the authority or power to control is important.
4. **Loss or Damage:** The medical act performed by the employee or agent must result in loss or injury to the patient or other parties involved.
5. **Not a Personal Accident:** The act that resulted in the loss was not the result of a personal accident or performed outside the scope of assigned duties and responsibilities (Akli, 2022).

In the Indonesian legal context, the application of vicarious liability in medical disputes is important to determine the legal responsibility between the institution or organization and the medical practitioners working under its auspices. In medical disputes in Indonesia, proving vicarious liability involves several important stages. First, an admission by the responsible party of the wrongdoing of his subordinates is the first step. Next, evidence must be presented to show that the error occurred in the context of his or her employment. It is also important to show a clear link between the misconduct of the subordinate and their job. These stages are important in

establishing the legal responsibility of the institution or organization for medical acts committed by its employees or agents. (Budiman et al., 2023)

In the context of hospital civil liability in Indonesia, there are several limitations relating to the application of vicarious liability. Vicarious liability, or vicarious liability, is a legal doctrine that stipulates that a hospital may be liable for acts or omissions committed by its employees or agents within the scope of their employment.

However, there are some limitations that need to be considered in the application of vicarious liability related to hospitals in Indonesia. Here are some of those limitations:

1. **Scope of Employment or Authority:** A hospital can only be liable for acts or omissions committed by its employees or agents within the scope of their employment or authority. If the act is committed outside the scope of employment or authority, then the hospital may not be vicariously liable.
2. **Acts of Aid or Assistance:** A hospital may not be vicariously liable for acts or omissions that constitute acts of aid or assistance by its employees or agents. This means that if the employee or agent merely aids or assists in an act committed by another party, the hospital may not be liable for that act.
3. **Attempted Criminal Offenses:** If an employee or agent of the hospital commits an attempted criminal offense, the hospital may not be vicariously liable for the act. Vicarious liability usually only applies to acts actually committed, not attempted criminal acts. (Dita & Winanti, 2023)

It is important to note that these limits may vary depending on the case and the interpretation of the law applied. Therefore, in determining the civil liability of hospitals in Indonesia, it is important to consider these factors and refer to the applicable legal provisions. Thus, there are several limitations to the application of vicarious liability in hospital civil liability in Indonesia, including scope of employment or authority, acts of aid or assistance, and attempted criminal offenses.

Application of central responsibility in the overall civil liability of hospitals in medical disputes in Indonesia

Hospitals in the context of central responsibility in medical disputes in Indonesia have a broad scope of liability. They are responsible not only for the direct medical actions performed by their medical personnel, but also for the policies, procedures, and standards of health services implemented in the hospital. This includes the obligation to ensure that medical staff adhere to the established standards of medical ethics and operational procedures. In addition, the hospital is also responsible for compliance with applicable health rules and regulations, as well as for managerial decisions that may affect the quality of service and patient safety. In medical disputes, the concept of central responsibility underscores the importance of hospitals as entities that have a leading role in regulating and ensuring all aspects of the health services they offer are in accordance with established standards and are reliable. (Karwur, 2024)

In medical dispute resolution in Indonesia, there is a central responsibility mechanism that can be

applied. This mechanism aims to determine the primary responsibility in the settlement of medical disputes. Here are some things that need to be considered in the application of the central responsibility mechanism:

1. **Litigation and Mediation:** In medical dispute resolution in Indonesia, there are two main processes that can be used, namely litigation and mediation. Litigation is a settlement process through the court, while mediation is an out-of-court settlement process with the help of a mediator. Mediation is regulated in Supreme Court Regulation No. 1/2016 on Mediation Procedures in Court.
2. **Legal Sanctions:** If a doctor is proven to have committed an error or negligence in medical practice, then civil or criminal legal sanctions can be applied according to the consequences caused by the negligence. Civil legal sanctions may include compensation, while criminal legal sanctions may include imprisonment or fines.
3. **General Courts and Mediation:** Until recently, medical dispute cases were still handled by the general courts in Indonesia. However, there have been rapid developments in opening up space for out-of-court dispute resolution through medical disciplinary panel hearings and mediation efforts. Nonetheless, patients or their families still have the right to pursue legal channels (courts) if an alleged violation occurs.
4. **Hospital Liability:** In medical dispute resolution, hospitals also have liability that can be determined through the central responsibility mechanism. Hospitals can be held liable if they are proven to be involved in errors or omissions that occur in health services. This liability can be in the form of compensation or preventive measures to avoid losses arising from medical disputes. (Ibrahim, 2022)

It is important to note that the mechanism for applying central responsibility in medical dispute resolution may vary depending on the case and the interpretation of the applicable law. Therefore, in determining the appropriate mechanism, it is important to consider these factors and refer to the applicable legal provisions. Thus, there are several mechanisms for the application of central responsibility in medical dispute resolution in Indonesia, including litigation and mediation, legal sanctions, general courts, and hospital liability.

In the context of medical dispute resolution in Indonesia, there are comparisons and contradictions between the application of vicarious liability and central responsibility. Vicarious liability is a legal doctrine that stipulates that individuals or entities can be liable for wrongful acts committed by others in a particular relationship, such as between an employer and an employee. In medical disputes, a hospital as a legal entity can be held liable for the wrongdoing of health personnel working under its supervision. This principle is based on the principle of *respondeat superior*, where the hospital is held liable for negligence or wrongdoing committed by its employees or agents. (Nurhasan, 2021)

On the other hand, central responsibility refers to the primary responsibility in medical dispute resolution. It includes factors such as the quality of care provided by the hospital, the ethical responsibilities of doctors, and the legal responsibilities of the hospital as a legal entity. In this

context, the hospital can be held liable for medical acts performed by doctors working under its auspices. The main difference between vicarious liability and central responsibility lies in the focus of responsibility. Vicarious liability emphasizes the hospital's legal responsibility for negligence or wrongdoing committed by its employees or agents. Central liability, on the other hand, emphasizes central responsibility in medical dispute resolution, which involves factors such as the quality of care and the ethical responsibilities of doctors.(Kartikawati, 2021)

Although there are differences between the two concepts, there are also similarities in terms of hospital liability in medical disputes. Both vicarious liability and central responsibility recognize that hospitals as legal entities have responsibility for medical acts performed by health workers under their supervision. In both concepts, the hospital can be held liable for errors or omissions in health services.

The application of vicarious liability and central responsibility in medical disputes in Indonesia may vary depending on the case and the legal interpretation applied. Therefore, in determining liability in medical dispute resolution, it is important to consider relevant factors and refer to the applicable legal provisions. Overall, there are differences and similarities between the application of vicarious liability and central responsibility in medical disputes in Indonesia. Vicarious liability emphasizes the hospital's legal responsibility for acts of negligence or wrongdoing committed by its employees or agents, while central responsibility emphasizes the primary responsibility in medical dispute resolution, including the quality of care and ethical responsibility of the doctor.(Sukinto & SH, 2022)

Effectiveness and fairness of the application of vicarious liability and central responsibility in hospital civil liability in medical disputes in Indonesia

In an effort to protect patient rights and encourage hospital compliance with medical service standards in Indonesia, the application of vicarious liability and central responsibility plays a very important role. These two concepts, while having different approaches, both serve to ensure that patients' rights are protected and hospitals are held accountable for the actions of their medical personnel.(Irawati, 2024; Kartikawati, 2021)

Vicarious liability is a legal principle that stipulates that an entity, such as a hospital, can be held liable for acts of negligence or wrongdoing committed by health personnel working under its supervision. This means that the hospital must be held legally responsible for the losses suffered by patients due to medical actions that do not meet established service standards. With the application of vicarious liability, patients get additional protection as they do not need to sue medical personnel individually. Instead, they can sue hospitals that have greater resources to provide compensation.(Naldo, 2021)

On the other hand, central responsibility refers to the primary responsibility in medical dispute resolution. It covers various aspects, including the quality of care provided, the ethical responsibilities of doctors, and the legal responsibilities of the hospital as a legal entity. Central responsibility ensures that the hospital is responsible for the quality of care provided to patients, including providing sufficient information regarding the hospital's responsibility to protect the

patient's personal property and involving the patient and their family in the service process. The application of vicarious liability and central responsibility can improve the effectiveness of protecting patient rights and hospital compliance with medical service standards in Indonesia. With vicarious liability, hospitals have an incentive to ensure that health workers under their supervision provide quality services. In addition, central responsibility ensures that hospitals have policies and procedures that support the involvement of patients and their families in the service process, and protect patients' rights.(Wianti, 2024)

However, the effective implementation of these two concepts can be affected by various factors, such as hospital awareness and compliance with medical service standards, a good understanding of legal responsibilities, and effective supervision and enforcement. Therefore, it is important for hospitals, health workers, and relevant authorities to work together to ensure effective implementation of these two concepts.

The analysis of justice in the application of vicarious liability and central responsibility in medical disputes in Indonesia can be seen from how the law balances the interests of patients, doctors and hospitals. Vicarious liability places responsibility on the hospital for acts committed by doctors and medical staff during the course of their employment. This provides protection to patients by ensuring that they can obtain proper compensation in the event of malpractice, without having to face the difficulty of suing individual doctors.(Claudia & Gunadi, 2023)

In contrast, central responsibility emphasizes the doctor's direct responsibility for his or her medical actions. This puts pressure on doctors to act with high professional standards, but can be a heavy burden on individual doctors. A balance between these two concepts is important to provide justice: patients get adequate legal protection, hospitals remain responsible for the systems and work environment they manage, and doctors are not overburdened individually for systemic errors. To improve the application of vicarious liability and central responsibility in hospital civil liability in medical disputes in Indonesia, several suggestions and recommendations can be considered. First, there is a need for clarification and refinement of regulations related to vicarious liability and central responsibility in the context of hospitals. This can be done through the revision or drafting of more detailed and clear regulations regarding the hospital's responsibility for acts of negligence or errors committed by health workers under its supervision, as well as the hospital's responsibility in involving patients and their families in the medical service process.(Sumantri & Hermansyah, 2023)

In addition, it is important to increase awareness and education regarding vicarious liability and central responsibility among hospitals, health workers, and other related parties. This can be done through thorough training and socialization regarding the legal responsibilities of hospitals, the importance of involving patients in the medical service process, and the standards of service that must be met. Effective supervision and law enforcement are also needed to ensure the implementation of vicarious liability and central responsibility. The relevant authorities need to conduct strict supervision of hospitals and health workers to ensure compliance with medical service standards. In addition, strict law enforcement against violations that occur is also important to provide a deterrent effect and encourage compliance. Efficient and transparent medical dispute resolution mechanisms need to be developed. This can be done through alternative approaches

such as mediation or arbitration, which can help reduce the burden on the courts and speed up dispute resolution. These mechanisms should also ensure fairness for all parties involved. (Nardiman, 2022)

Hospitals also need to improve communication and patient involvement in the medical service process. This can be done through providing clear and comprehensive information to patients regarding their rights, grievance procedures, and dispute resolution mechanisms. In addition, it is important to encourage active participation of patients in decision-making regarding their medical care. The application of vicarious liability and central responsibility has an important role in protecting patient rights and encouraging hospital compliance with medical service standards in Indonesia. These two concepts can improve patient protection as consumers of health services and ensure the quality of care that meets established standards. However, the effective implementation of these two concepts needs to be supported by awareness, understanding, and cooperation from all relevant parties. By implementing these suggestions and recommendations, it is hoped that the application of vicarious liability and central responsibility in hospital civil liability in medical disputes in Indonesia can be more effective in protecting patient rights and encouraging hospital compliance with medical service standards. (Salawati, 2020)

CONCLUSION

The conclusion of this study highlights the application of the principles of vicarious liability and corporate responsibility in the civil liability of hospitals for the acts of doctors working under their auspices in the context of medical disputes in Indonesia. The results confirm that hospitals can be held legally liable for errors or omissions committed by their medical staff, such as doctors and nurses, as stipulated in the principle of vicarious liability. The importance of hospital compliance with applicable regulations and procedures, as well as the implementation of effective risk management, is crucial in reducing potential medical disputes and the financial impact that may arise from legal claims.

Suggestions and recommendations from this study include the need for better policy development to manage the risk of medical errors, including necessary medical standards and proper procedures. Better training for medical staff is also emphasized to improve the quality of medical services and minimize errors. Supervision of the actions of medical staff by hospitals should be strengthened, while the government is also required to develop a clearer legal system for handling medical malpractice cases. In addition, the development of a better training curriculum for medical staff is expected to make a positive contribution in improving the overall quality of healthcare services and enhancing the protection of patients' rights in Indonesia. As such, this study is expected to provide a strong foundation for the improvement of the legal system and policies in the healthcare sector, as well as increase the understanding of the legal liability of hospitals in medical malpractice cases.

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